

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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	: Chapter 11
In re:	:
	: Case No. 09-50002 (SMB)
Old Carco LLC, <i>et al.</i> ,	:
	: Jointly Administered
Debtors.	:
	:
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	: Adv. Pro. No. 18-01035 (SMB)
Makenna Bennett,	:
	:
Plaintiff,	:
	:
-v-	:
	:
FCA US LLC, <i>et al.</i> ,	:
	:
Defendants.	:
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**ORDER SEVERING SECOND CAUSE OF ACTION AND  
TRANSFERRING REMAINDER OF CASE**

WHEREAS, on June 22, 2017, plaintiff Makenna Bennett (“Plaintiff”) filed her Complaint in the United States District Court for the District of Utah (“Utah District Court”), commencing *Bennett v. FCA US LLC, et al.*, Case No. 2:17-cv-00665-RJS before the Honorable District Judge Robert J. Shelby;

WHEREAS, the Complaint alleges claims for (1) strict liability; (2) negligence (including for failure to warn); (3) breach of express warranty; (4) breach of implied warranty of merchantability; and (5) breach of implied warranty of fitness for a particular purpose, along with a demand for punitive damages that was subsequently dismissed with prejudice by stipulation and order;

WHEREAS, on October 27, 2017, defendant FCA US LLC (“FCA US”) filed a motion to transfer venue to the United States District Court for the Southern District of New York (“S.D.N.Y.”) for referral to this Court to address issues related to the interpretation of this Court’s orders, and to stay discovery;

WHEREAS, on February 7, 2018, the Utah District Court issued its *Memorandum Decision and Order Granting Motion to Transfer Venue*, transferring the case to the S.D.N.Y. for referral to this Court;

WHEREAS, on February 28, 2018, the above-captioned adversary proceeding was docketed with this Court;

WHEREAS, prior to transfer to this Court, the parties have raised various discovery matters with the Utah District Court;

WHEREAS, on February 1, 2018, Magistrate Judge Furse entered an order (the “Discovery Order”) with respect to certain merits discovery issues;

WHEREAS, on February 15, 2018, FCA US filed an objection to the Discovery Order, triggering review by the District Court;

WHEREAS, the parties’ rights are fully reserved with respect to the Discovery Order and FCA US’s Objection to that Discovery Order;

WHEREAS, on March 13, 2018, Plaintiff filed a letter with this Court requesting a discovery conference;

WHEREAS, on March 20, 2018, this Court held a discovery conference and determined that, given this Court’s limited gatekeeper role, discovery matters should be addressed by the Utah District Court and those claims not subject to FCA US’s forthcoming

motion to dismiss pursuant to this Court's orders should be returned to the Utah District Court for further proceedings;

IT IS HEREBY ORDERED THAT:

1. The Complaint's Second Cause of Action for Negligence, including Plaintiff's failure to warn claims, are severed from the remainder of the Complaint and will remain with this Court pending adjudication of issues relating to this Court's Sale Order [Bankr. Docket No. 3232] and other orders.
2. The Complaint's causes of action other than the Second Cause of Action for Negligence are hereby transferred and returned to the Utah District Court for all purposes.
3. This Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

**Dated: March 23, 2018**  
**New York, New York**

**/s/ STUART M. BERNSTEIN**  
**Hon. Stuart M. Bernstein**  
**United States Bankruptcy Judge**